IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8273 OF 2007

Ashutosh Chakrovorti & Ors. .. Petitioners

Versus

Vedant Phase II Coop.Housing

Society & Ors. .. Respondents

Mr.Y.M.Pendse for petitioners

Mr.Sandesh Deshpande for respondent Nos. 5 to 8

CORAM : S.C.DHARMADHIKARI, J.

DATE : 23rd November 2007

P.C.

. Petitioners before me are the intervenors in Revision Application No.71 of 2007 which was directed against the enquiry report submitted by

the second respondent before me on 31st December 2006.

2. The grievance of the petitioners-intervenors is that the revision application has been allowed erroneously by holding that the revision applicants were not given any opportunity by the enquiry officer. My attention is invited to the averments in the revision application and more particularly para 5 thereof which reads thus:-

> "5. The applicants further state that the applicants appeared before respondent No.1 and gave explanation of each and every point. During inquiry period the applicants satisfied to the respondent No.2 but while issuing inquiry report dated 31/12/2006, there is no proper whisper in the said inquiry report regarding explanation given to him. The

> respondent No.2 has given report without applying his mind and has suppressed the material facts in the said report. By plain reading of the report it reveals that, the report is one sided, vague, self contradictory and bias. The applicants further state that there is no misappropriation of money, even though, the respondent No.2 levelled the charges against applicants."

3. In such circumstances, I enquired from the learned Counsel for respondent Nos. 5 to 8 whether the case is that explanation was not taken into consideration or no personal hearing was granted. He confirmed the above statements. There was an explanation qua each charge and the order is vitiated by non application of mind to the same is the submission.

4. Be that as it may, the order could not

have proceeded on the basis that no personal hearing at all was given to the revision applicants. The authority has allowed the revision application only on this short ground. In such circumstances, in my view, interest of justice would be sub-served if the order under challenge is set aside and Revision Application No.71 of 2007 is restored to the file of Divisional Joint Registrar, Cooperative Societies, Konkan division for being decided afresh on merits and in accordance with law, without in any manner being influenced by the earlier observations.

5. Parties to appear before the Divisional Authority on 5th December 2007 and, thereafter, Revision Application shall be heard and decided within three months from the date of first appearance. All contentions of both sides are expressly kept open.

(S.C.Dharmadhikari, J)